IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 5601 of 2007(P)

PETITIONER:

M.MUTHULEKSHMI,
W/O.LATE SARAVANA BHAVAN,
UMA MAHESWARA BHAVAN,
MUNDAKKAL, KOLLAM.

BY ADV. SRI.B.SURESH KUMAR

RESPONDENTS:

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1. THE SUPERINTENDENT OF POLICE,
KOLLAM.

2. THE DEPUTY SUPDT. OF POLICE,
KOLLAM.

3. THE CIRCLE INSPECTOR OF POLICE,
KOLLAM EAST POLICE STATION,
KOLLAM, 691 001.

4. R.PRATHAP,
S/O.RAVEENDRANATHAN NAIR,
NANI NIVAS, UDAYAMARTHANDAPURAM CHERRY,
MUNDAKKAL, KOLLAM.

5. R.PREETHA,
D/O.RAVEENDRANATHAN NAIR,
NANI NIVAS, UDAYAMARTHANDAPURAM CHERRY,
MUNDAKKAL, KOLLAM.

6. R.PRAKASH, S/O.RAVEENDRANATHAN NAIR,
NANI NIVAS, UDAYAMARTHANDAPURAM CHERRY,
MUNDAKKAL, KOLLAM.

7. SASIDHARAN,
MADHURIMA, AYATHIL P.O.,
KOLLAM.

8. RADHAKRISHNAN,
WATCHER, AMMA HOTEL BUILDING,
KOLLAM.

BY GOVERNMENT PLEADER SRI.S.U. NAZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.5.2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 5601 of 2007 P

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Dated this the 25th day of May, 2007

JUDGMENT

The petitioner, a woman, has come to this court to complain about the inaction of the police when she complained about the high handed action of her powerful and influential landlord, who committed cognizable offences against her.

2. The petitioner claims to be a tenant. She was inducted into possession of the premises by the former owner, from whom respondents 4 to 6 had purchased the property in question. Even the former landlord had attempted to evict the petitioner by initiating proceedings before the Rent Control Court. That attempt did not succeed. It is contended that respondents 4 to 6 were entertaining bitter animosity against the petitioner and were attempting to some how drive her out of the premises or to compel her to surrender the premises.

3. According to the petitioner, two incidents occurred on 9.12.06 and 16.12.2006. The specific averments regarding the

events that took place on 9.12.06 and 16.12.06 are narrated by the petitioner in the following words in Ext.P3 complaint filed by her:

> "The infuriated accused 1 to 3 have been making several attempts either to forcibly evict the petitioner or to compel her to vacate from the building. Now as part of this, accused 1 to 5 with the assistance of hired Goondas had demolished a portion of the show walls installed in the building connecting the ground floor roof and first floor roof on the midnight of 9.12.06. Against this, the petitioner had filed petition before the Kollam East Police Station and petitioner was told that action is being taken against the accused persons. While so at the abetment of accused 1 to 3 the accused 4 and 5 with the assistance of a group of 10 persons who are hired Goondas and can be identifiable at sight have unlawfully assembled together armed with deadly weapons and implements for house breaking and trespassed into top of the petitioner's shop room under occupation as tenant at about 3.00 a.m. on 16.12.06 illegally and forcibly demolished the parapet wall of the rented shop room and a display board of the petitioner's shop Laxmi Music having a length of 10 metres and width of 1 metre and made of steel frames and G.I. sheets. The display board painted with red and yellow with inscription Laxmi Music fitted with the parapet wall with lighting arrangements was damaged and illegally removed. The culprits have stolen the display board and the same is concealed into some place known to the accused persons. The display board was worth Rs.35,000/- and the same is owned by the petitioner."

4. According to the petitioner in as much as the police did not take any action when she complained of the same on 9.12.06, she had rushed to the Superintendent of Police, the first respondent herein, to complain about

the incident which took place on 9.12.06 and that on 16.12.06. Ext.P3 is the complaint so lodged. That was submitted on 16.12.06. Receipt of the complaint dt.16.12.06 is not disputed. The same was forwarded to the third respondent by the first respondent and that fact is stated in Ext.P4 acknowledgment.

5. The grievance of the petitioner is that notwithstanding the admitted lodging of Ext.P3 complaint, no crime has been registered nor has any action been taken against the accused persons. According to the petitioner, the accused persons are very influential and succumbing to the pressure of the accused persons, the police are hesitating to take action against them. The petitioner, in these circumstances, prays that there may be a positive direction to respondents 1 to 3 to register a crime and conduct investigation into the matter.

6. Notice was given to respondents 1 to 3. The learned Prosecutor has entered appearance on their behalf. A statement has been filed by the third respondent. The crux of the stand of the third respondent is that he had conducted an enquiry/investigation after receipt of Ext.P3 complaint, but he found the same not worthy enough to register a crime or conduct

a proper investigation. This in short is the stand taken by the third respondent.

7. The learned counsel for the petitioner submits that the stand taken by the respondents/State is not legally tenable. The learned counsel for the petitioner relies on the decisions in **State of Haryana & ors.** v. **Bhajan Lal** (AIR 1992 SC 604), **Ramesh Kumari** v. **State** (2006 (2) KLT 404 (SC), **Lallan Chaudhary** v. **State of Bihar** (2007 (1) SCC (Crl) 684) and **Balachandran** v. **State of Kerala** (2000 (2) KLT 352). A number of other decisions are also relied on. The learned counsel for the petitioner particularly relies on the following passage in **Lallan Chaudhary,** (supra) which reiterates the position of law clearly:

> "Section 154 of the Code thus casts a statutory duty upon police officer to register the case, as disclosed in the complaint, and then to proceed with the investigation. The mandate of Section 154 is manifestly clear that if any information disclosing a cognizable offence is laid before an officer in charge of a police station, such police officer has no other option except to register the case on the basis of such information. In the case of Ramesh Kumari v. State (NCT of Delhi) and Ors. (2006) 2 SCC 677 this Court has held that the provision of Section 154 is mandatory. Hence, the police officer concerned is duty-bound to register the case on receiving information disclosing cognizable offence. Genuineness or credibility of the information is not a condition precedent for registration of a case. That can only be considered after registration of the case."
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> (emphasis supplied)

8. The short question that remains to be ascertained is whether Ext.P3 contains "information relating to the commission of a cognizable offence". I have extracted the relevant portion above and I find absolutely no semblance of a doubt that the allegations raised do contain information relating to the commission of cognizable offences. If that be so, Section 154 must have been complied with by respondents 1 to 3. The crime must have been registered, investigation conducted and appropriate conclusions reached. In not having done so, respondents 1 to 3 have committed breach of the provisions of Section 154 Cr.P.C. The grievance of the petitioner is found to be with merit. She is entitled to the relief claimed by her.

9. This Writ Petition is accordingly allowed. The respondents are directed to register a crime under Section 1543 Cr.P.C. and furnish copy to the petitioner within three weeks from the date of this judgment. Appropriate investigation shall be conducted and conclusions reached by respondents 1 to 3. In view of the peculiar facts and circumstances of this case, I direct the first respondent to entrust the investigation of the crime to a senior police official in the district under him, not below the rank of a Deputy Superintendent of Police.

10. Hand over copy of the judgment to the learned Prosecutor for immediate communication to respondents 1 to 3 for appropriate action.

(R. BASANT)
Judge

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